

DISTRICT JUDGE BENJAMIN H. SETTLE
MAGISTRATE JUDGE DAVID W. CHRISTEL

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

MATTHEW R. RUTH,

Plaintiff,

v.

PATRICK GLEBE, et al.

Defendants.

NO. 2:14-cv-01388-BHS-DWC

DEFENDANTS' ANSWER TO
PLAINTIFF'S SECOND AMENDED
CIVIL RIGHTS COMPLAINT AND
JURY DEMAND

COME NOW the Defendants, DONNA DIXON, MARK DRAGOO, PATRICK GLEBE, ISRAEL "ROY" GONZALEZ, VIOLA GORHAM, DALLAS HENSLEY, VICTOR MARTINEZ, TERRIE MATSEN, KEVIN SHANAHAN, CHERYL SULLIVAN, and JOSHUA SUTHERBY, by and through their attorneys of record, ROBERT W. FERGUSON, Attorney General, and CANDIE M. DIBBLE, Assistant Attorney General, and submit their Answer to Plaintiff's Second Amended Complaint. ECF No. 84.

ANSWER

Under Federal Civil Rule 8(b), Defendants generally deny each allegation of fact in Plaintiff's Second Amended Complaint unless the allegation of fact is expressly admitted. Defendants will not respond to legal arguments contained in the Plaintiff's Second Amended Complaint and will deny them if it is unclear if the Plaintiff is asserting a factual or legal claim.

I. PREVIOUS LAWSUITS

Defendants are without sufficient knowledge as to the allegations contained in this section of the Plaintiff's Second Amended Complaint and therefore deny the same.

II. PLACE OF PRESENT CONFINEMENT

Defendants admit that at the time Plaintiff filed this lawsuit he was housed at the Stafford Creek Corrections Center in Aberdeen, Washington, a Washington Department of Corrections (DOC) facility.

Defendants admit that there is a grievance procedure available at the Plaintiff. Defendants deny Plaintiff completed the grievance process available to him.

III. INTRODUCTION

Defendants deny the allegations listed in this section of the Plaintiff's Second Amended Complaint as they call for legal conclusions.

IV. JURISDICTION AND VENUE

1. Admit.

2. Admit.

V. PARTIES

3. Admit.

4. Defendants admit Patrick Glebe was the Superintendent of Stafford Creek Corrections Center. Defendants deny Roy Gonzales is the correctional manager prison division. Defendants deny all other remaining allegations in this paragraph of the Plaintiff's Second Amended Complaint as they call for legal conclusions.

5. Defendants admit Gorham, Martinez, Sutherby, LaRose, Shanahan, Hensley, Matsen, Dixon, Dragoo, Sullivan, Davis, May and Kain have all been named as Defendants in this paragraph of the Plaintiff's Second Amended Complaint. Defendants deny the remaining allegations.

6. Admit.

VI. FACTS

7. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

8. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

9. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

10. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

11. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

12. Defendants admit Plaintiff filed grievances related to mail rejections. Defendants assert the grievance documents speak for themselves.

13. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

14. Defendants admit Plaintiff was issued mail rejections 43957 and 43958. Defendants assert the mail rejections speak for themselves.

15. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

16. Defendants admit Defendant Gonzales responded to Plaintiff's mail rejection appeal. Defendants assert the correspondence speaks for itself.

17. Defendants admit Plaintiff filed mail rejection appeals. Defendants assert the mail rejection appeal documents speak for themselves. Defendants deny all remaining allegations in this paragraph.

18. Deny.

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1 19. Defendants admit at the time of the Plaintiff's claims, the information in the law
2 library was updated on a quarterly basis. Defendants deny all remaining allegations in this
3 paragraph.

4 20. Defendants admit Plaintiff filed mail rejection appeals. Defendants assert the
5 mail rejection appeal documents speak for themselves. Defendants deny all remaining
6 allegations in this paragraph.

7 21. Deny.

8 22. Deny.

9 23. Deny.

10 24. Defendants are without sufficient knowledge as to the allegations contained in
11 this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

12 25. Defendants admit Plaintiff filed grievance Log ID 14555004. Defendants assert
13 the grievance records speak for themselves.

14 26. Defendants admit Plaintiff filed grievance Log ID 14555004. Defendants assert
15 the grievance records speak for themselves.

16 27. Defendants admit Plaintiff filed grievance Log ID 14555004. Defendants assert
17 the grievance records speak for themselves.

18 27¹. Defendants admit Plaintiff filed grievance Log ID 14555004. Defendants assert
19 the grievance records speak for themselves.

20 30. Defendants neither deny nor admit this paragraph of the Plaintiff's Second
21 Amended Complaint.

22 31. Deny.

23 32. Defendants neither deny nor admit this paragraph of the Plaintiff's Second
24 Amended Complaint.

25
26 ¹ Plaintiff's First Second Complaint has two paragraphs numbered 27 and then skips to paragraph 30.

1 33. Defendants neither deny nor admit this paragraph of the Plaintiff's Second
2 Amended Complaint.

3 34. Deny.

4 35. Defendants are without sufficient knowledge as to the allegations contained in
5 this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

6 36. Defendants are without sufficient knowledge as to the allegations contained in
7 this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

8 37. Deny.

9 38. Deny.

10 39. Deny.

11 40. Deny.

12 41. Deny.

13 42. Deny.

14 43. Deny.

15 44. Deny.

16 45. Deny.

17 46. Deny.

18 47. Deny.

19 48. Deny.

20 49. Defendants admit because e-filing for offenders was on a "pilot project" basis,
21 the procedures are not included formally in any policy.

22 50. Deny.

23 51. Deny.

24 52. Deny.

25 53. Defendants are without sufficient knowledge as to the allegations contained in
26 this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

1 54. Deny.

2 55. Deny.

3 ///

4 **VII. EXHAUSTION OF LEGAL REMEDIES**

5 Defendants admit Plaintiff filed mail rejection appeals and utilized the Offender
6 Grievance Process. Defendants assert the records speak for themselves. Defendants deny the
7 remaining allegations in this paragraph of the Plaintiff's Second Amended Complaint.

8 **VIII. LEGAL CLAIMS**

9 Defendants deny all allegations contained in this sections of the Plaintiff's Second
10 Amended Complaint.

11 **IX. REQUEST FOR RELIEF**

12 Defendants deny Plaintiff is entitled to any of the relief set forth in this section of the
13 Plaintiff's Second Amended Complaint.

14 **X. AFFIRMATIVE DEFENSES**

15 Having answered the allegations of Plaintiff's Second Amended Complaint, and by
16 way of further answer and affirmative defense, Defendants affirmatively allege:

17 1. Plaintiff has failed to state a claim upon which relief can be granted.

18 2. All acts allegedly done by the Defendants with respect to Plaintiff were done in
19 the reasonable belief that they were in accordance with the Federal Constitution, and the laws
20 of the state of Washington and the United States. Defendants also acted pursuant to published
21 policies and field instructions, which they could have reasonably believed were constitutional.
22 Defendants are entitled to qualified immunity from damages.

23 3. Defendants reserve the right to allege additional affirmative defenses after the
24 completion of discovery.

25 Having fully answered the Plaintiff's Second Amended Complaint and having stated
26 affirmative defenses, Defendants pray for judgment dismissing the Plaintiff's Second

1 Amended Complaint and action with prejudice. Defendants also request costs and reasonable
2 attorney's fees.

3 **XI. JURY DEMAND**

4 Should this matter proceed to trial, Defendants demand a jury determine all issues of
5 fact.

6 RESPECTFULLY SUBMITTED this 31st day of May, 2016.

7 ROBERT W. FERGUSON
8 Attorney General

9
10 s/ Candie M. Dibble
11 CANDIE M. DIBBLE, WSBA #42279
12 Assistant Attorney General
13 Corrections Division
14 Attorneys for Defendant
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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

MATTHEW R RUTH DOC #879492
STAFFORD CREEK CORRECTIONS CENTER
191 CONSTANTINE WAY
ABERDEEN WA 98520
Email: docscconmatefederal@DOC1.WA.GOV

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 31st day of May, 2016, at Spokane, Washington.

s/ Patty Willoughby
PATTY WILLOUGHBY
Legal Assistant III